

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 8/24/09 has been entered.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Rook on December 1, 2009.

The application has been amended as follows:

1.-22. (Canceled)

23. (Currently Amended) A computerized method for identifying a solution to address exposed performance gaps of a company in a specific industry, comprising:

first identifying a plurality of operational metrics for the specific industry, wherein the operational metrics includes a factor used to measure health or viability of a generic company in the specific industry, wherein the specific industry is a grocery store industry, wherein the operational metrics include at least one of a rate of inventory turnover and a number of customers per day;

assembling on a computer device a set of solutions for application by the specific industry, wherein the set includes one of a decision, an action, a product, and a service;

assessing, by a proposition system, impacts of application of the set of solutions on the operational metrics for the specific industry, wherein the assessing includes determining which of the set of solutions has a negative impact on an operational metric and determining which of the set of solutions has a positive impact on the operational metric;

after identifying, assembling, and assessing, then comparing a current operational performance of the company to an operational performance of another company within the specific industry to obtain at least one performance gap, wherein the operational performance includes a performance of a company based upon the operational metric for the specific industry;

identifying a solution based upon the impacts to address the exposed performance gaps, wherein the solution is at least one of a decision, an action, a product, and a service that impacts a problem in a positive manner; and
outputting the solution from the computer system.

24 - 25. (Canceled).

26. (Previously Presented) The method of claim 23, wherein the determining further comprises:

applying a set of conflict resolution rules when a solution has a positive impact on a first operational metric and a negative impact on a second operational metric; and

then determining from the applying whether the solution should be identified for implementation.

27. (Previously Presented) The method of claim 23, wherein identifying the plurality of operational metrics, assembling, assessing, comparing, identifying the solution, and outputting steps are repeated automatically at a scheduled interval.

28. (Previously Presented) The method of claim 23, wherein the another company is a best in class company in the specific industry.

29. (Currently Amended) A computerized method for generating a value proposition for a company in a specific industry in a computer system, comprising the steps of:

first identifying a plurality of operational metrics for the specific industry, wherein the operational metrics include a factor used to measure health or viability of a generic company in the specific industry, wherein the specific industry is a grocery store industry;

assembling on a computer device a set of solutions for application by the specific industry, wherein the set includes one of a decision, an action, a product, and a service;

assessing, by a proposition system, impacts of application of the set of solutions on the operational metrics for the specific industry, wherein the assessing includes determining which of the set of solutions has a negative impact on an operational metric and determining which of the set of solutions has a positive impact on the operational metric;

after identifying, assembling, and assessing, then comparing a current operational performance of the company to an average operational performance of companies within the specific industry to expose at least one performance gap, wherein the current operational performance of the company includes a performance of the company based upon the operational metric for the specific industry;

generating a value proposition by identifying a solution based upon the gaps and the impacts, wherein the solution is at least one of a decision, an action, a product, and a service that impacts a problem in a positive manner; and

outputting the value proposition from the computer system.

30. (Currently Amended) A computerized method for generating a value proposition for a company in a specific industry in a computer system, comprising the steps of:

first identifying operational metrics for the specific industry, wherein the operational metrics includes a factor used to measure health or viability of a generic company in the specific industry, wherein the specific industry is a grocery store industry;

assembling on a computer device a set of solutions for application by the industry, wherein the set includes one of a decision, an action, a product, and a service;

assessing, by a proposition system, impacts of application of the solutions on the operational metrics for the specific industry, wherein the assessing includes determining which of the set of solutions has a negative impact on an operational metric and determining which of the set of solutions has a positive impact on the operational metric;

after identifying, assembling, and assessing, then comparing a current operational performance of the company to an average operational performance of companies within the specific industry to expose performance gaps, wherein the current operational performance includes a performance of a company based upon the operational metric for the specific industry;

generating a value proposition by identifying a solution based upon the gaps and the impacts that improves a business value of the company, wherein the solution is at least one of a decision, an action, a product, and a service that impacts a problem in a positive manner; and

outputting the value proposition from the computer system.

31 - 33. (Canceled)

The following is an examiner's statement of reasons for allowance: The application is allowable for the reasons set forth on pages 13-18 of the decision of the Court of Appeals for the Federal Circuit, which is hereby incorporated by reference. As noted therein, and as argued on

pages 12 and 13 of Appellant's brief, the claimed invention requires identifying a plurality of operational metrics for a grocery store industry, whereas the closest prior art requires collection of metrics for a call center which does not teach or suggest the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHNNA R. LOFTIS whose telephone number is (571)272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brad Bayat can be reached on 571-272-6704. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Johnna R Loftis/
Examiner, Art Unit 3624